

**COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND**

**BILL NO. 06-09 As Amended**

Introduced by Council President Wagner at the request of the County Executive.

Legislative Day No. 06-09 Date: March 21, 2006

AN EMERGENCY BILL authorizing, approving and empowering Harford County, Maryland in connection with a parking facility financed with certificates of participation issued by the Town of Bel Air in 1988 and thereafter refunded with refunding certificates of participation issued by the Town of Bel Air in 1993 ("Bel Air Parking Facility"), to loan to the Town of Bel Air an amount not to exceed \$1,035,361.87 ("Loan") to enable the Town of Bel Air to retire the outstanding debt related to the refunding certificates of participation which remain outstanding; to authorize Harford County, Maryland to pay to the Bank of New York, Trustee an amount not to exceed \$1,797,033.63 representing the share of Harford County, Maryland of the outstanding principal balance due of the refunding certificates of participation issued by the Town of Bel Air in connection with the Bel Air Parking Facility; to authorize Harford County, Maryland to enter into a joint use agreement with the Town of Bel Air providing for the use of the Bel Air Parking Facility by the Town of Bel Air and Harford County, Maryland, upon such terms and conditions as may be approved by the County Executive of Harford County, Maryland; and providing other matters in connection therewith; providing that as substantial financial savings will inure to the benefit of Harford County, Maryland and the Town of Bel Air if the outstanding refunding certificates of participation of the Town of Bel Air are retired on June 1, 2006, that this Bill is declared to be an emergency bill affecting the health, safety and welfare of the citizens of Harford County, Maryland.

By the Council:, March 21, 2006

Introduced, read first time, ordered posted and public hearing scheduled

on: April 18, 2006  
at: 7:30 p.m.

By Order: Barbara J. O'Connor Council Administrator

**PUBLIC HEARING**

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on April 18, 2006, and concluded on April 18, 2006.

Barbara J. O'Connor, Council Administrator

1 WHEREAS, pursuant to a Ground Lease dated December 1, 1988 and a First  
2 Supplemental Amendment to the Ground Lease dated April 1, 1993, the Town of Bel Air leased  
3 from Harford County, Maryland approximately .751 acres on the west side of Hickory Avenue in  
4 Bel Air, Maryland, which together with an adjacent parcel containing approximately .741 acres  
5 of land owned by the Town of Bel Air, constituted the facility site for the construction, use and  
6 operation of the Bel Air Parking Facility; and

7 WHEREAS, the Bel Air Parking Facility was financed and refinanced pursuant to  
8 refunding certificates of participation under the terms of a Certificate of Participation Trust  
9 Agreement dated April 1, 1993 between the Town of Bel Air and Signet Trust Company; and

10 WHEREAS, pursuant to a December 1, 1988 Purchase Agreement and an April 1, 1993  
11 First Supplemental Amendment to the Purchase Agreement, the Town of Bel Air leased 700 of  
12 the parking spaces in the Bel Air Parking Facility to Harford County, Maryland pursuant to a  
13 Lease Agreement dated December 1, 1988 and a First Supplemental Amendment to the Lease  
14 Agreement dated April 1, 1993 which required Harford County, Maryland to make rental  
15 payments to the Town of Bel Air for the 700 parking spaces and that the rental payments were  
16 paid directly to Signet Bank, as Trustee, and credited against purchase installments due from the  
17 Town of Bel Air under the Purchase Agreement and First Supplemental Amendment thereto; and

18 WHEREAS, pursuant to Section 7.01(a) of the First Supplemental Amendment to the  
19 Purchase Agreement dated April 1, 1993, the Town of Bel Air may exercise its option to “pre-  
20 pay on any payment date of a purchase installment, all or any portion of the remaining balance of  
21 the facility purchase price” and on June 1, 2005 and thereafter, the Town of Bel Air may pre-pay  
22 the facility purchase price at a redemption price equal to 100% of the refunding certificates being  
23 redeemed; and

24

**BILL NO. 06-09**

**As Amended**

1 WHEREAS, the Town of Bel Air has requested Harford County, Maryland to advance  
2 sufficient funds to the Bank of New York as Successor Trustee to Signet Trust Company on  
3 behalf of the Town of Bel Air to retire the outstanding certificates of participation which  
4 financed and refinanced the Town of Bel Air Parking Facility; and

5 WHEREAS, the amount necessary to retire all outstanding certificates of participation  
6 related to the Town of Bel Air Parking Facility on May 1, 2006 is approximately \$2,832,395.50;  
7 and

8 WHEREAS, a debt service reserve fund has been maintained with the Bank of New York  
9 in which \$703,743.90 representing contributions from both the Town of Bel Air and Harford  
10 County, Maryland have been deposited; and

11 WHEREAS, the interest rate on the outstanding refunding certificates of participation  
12 ranges from 5.25% to 5.6%; and

13 WHEREAS, it has been proposed that Harford County, Maryland advance an amount not  
14 to exceed the sum of \$1,035,361.87 to the Town of Bel Air to be repaid at a rate of 4.25% over a  
15 period of 12 years; and

16 WHEREAS, Bill No. 05-17, page 14, lines 6 and 7, "The Annual Budget and  
17 Appropriation Bill for Harford County, Maryland" for the year ending June 30, 2006 includes  
18 amounts necessary to retire the entire balance due, principal and interest, on the certificates of  
19 participation for the Town of Bel Air Parking Facility in the amount of \$3,485,000 in principal  
20 and \$500,000 in interest.

21 NOW THEREFORE, IN ACCORDANCE WITH THE PROVISIONS OF THE  
22 CHARTER OF HARFORD COUNTY, MARYLAND, THE CODE OF HARFORD COUNTY,  
23 MARYLAND, THE LAWS OF THE STATE OF MARYLAND:

1        SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF HARFORD

2        COUNTY, MARYLAND that Harford County, Maryland (the "County") hereby authorizes and  
3        approves the advance by the County an amount not to exceed \$1,797,033.63 to retire all  
4        outstanding obligations of the County in connection with the Town of Bel Air Parking Facility,  
5        including, but not limited to, a Conditional Purchase Agreement dated December 1, 1988 and  
6        First Supplemental Amendment to Conditional Purchase Agreement dated April 1, 1993, a  
7        December 1, 1988 Purchase Agreement and April 1, 1993 First Supplemental Amendment to the  
8        Purchase Agreement, a First Supplemental Amendment to Master Ground Lease dated April 1,  
9        1993 and a Lease Agreement dated December 1, 1988 and the First Supplemental Amendment to  
10       Lease Agreement dated April 1, 1993 to the end that all outstanding obligations of the Town of  
11       Bel Air with respect to certificates of participation and refunding certificates of participation will  
12       also be retired and the sole obligation of the Town of Bel Air and the County with respect to the  
13       Town of Bel Air Parking Facility will be a bond substantially in the form attached hereto  
14       reflecting the Loan and a Joint Use Agreement between the County and the Town of Bel Air.

15       SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF

16       HARFORD COUNTY, MARYLAND that Harford County, Maryland shall loan an amount not  
17       to exceed \$1,035,361.87 to the Town of Bel Air to be used only by the Town of Bel Air to retire  
18       its portion of debt reflected in the 1993 refunding certificates of participation subject to reduction  
19       by the Town of Bel Air's share of the debt service reserve fund paid to Harford County,  
20       Maryland.

21       SECTION 3. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF

22       HARFORD COUNTY, MARYLAND that the obligation of the Town of Bel Air to repay the  
23       Loan to the County the sums advanced provided in Section 1 of this Bill in the amount not to  
24       exceed \$1,035,361.87 shall be reflected in a Bond issued upon the full faith and credit and

1 constituting a pledge of the unlimited taxing power of the Town of Bel Air approved by the  
2 Board of Commissioners of the Town of Bel Air after public hearing, substantially in the form  
3 attached hereto as Exhibit A.

4 SECTION 4. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
5 HARFORD COUNTY, MARYLAND that upon advance of the Loan and execution of the Bond  
6 the Town of Bel Air, the sole obligation of the Town of Bel Air and the County in connection  
7 with the Town of Bel Air Parking Facility shall be as reflected in a joint Use Agreement  
8 substantially in the form attached to this Bill as Exhibit B.

9 SECTION 5. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
10 HARFORD COUNTY, MARYLAND that the County Executive of Harford County, Maryland  
11 is hereby authorized to determine the amounts necessary to retire the refunding certificates of  
12 participation, the amounts due by the County, and the amounts due by the Town of Bel Air, and  
13 such amounts as determined by the County Executive shall be binding upon the County and the  
14 Town of Bel Air, the form of Bond of the Town of Bel Air payable to the County shall be  
15 substantially in form attached hereto as Exhibit A with such changes as may be approved by the  
16 County Executive of Harford County, Maryland as determined in the best interests of Harford  
17 County, Maryland and the Joint Use Agreement reflecting the use, operation and maintenance of  
18 the Town of Bel Air Parking Facility on and after June 1, 2006 shall be as reflected in Exhibit B  
19 attached hereto with such changes as may be approved by the County Executive of Harford  
20 County, Maryland and determined by him to be in the best interests of Harford County,  
21 Maryland.

22 SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
23 HARFORD COUNTY, MARYLAND that it is hereby determined by the County Council of  
24 Harford County, Maryland that the matters reflected in this Bill meet emergencies affecting

1 public health, safety and welfare in that substantial savings will accrue to the benefit of Harford  
2 County, Maryland in the form of reduced future payments and also income from the Town of Bel  
3 Air.

4 SECTION 7. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
5 HARFORD COUNTY, MARYLAND that this Emergency Bill shall take effect on the date it  
6 becomes law.

Effective: April 20, 2006.

The County Administrator of the Council does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.

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Council Administrator

HARFORD COUNTY BILL NO. 06-09 As Amended

Brief Title Emergency Legislation Bonding/Town of Bel Air Parking Facility  
is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

**CERTIFIED TRUE AND CORRECT**

Barbara J. O'Connor  
Council Administrator

Date April 18, 2006**ENROLLED**

Robert S. Hager  
Council President

Date April 18, 2006**BY THE COUNCIL**

Read the third time.

Passed: LSD 06-12

Failed of Passage: \_\_\_\_\_

By Order

Barbara J. O'Connor  
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 19<sup>th</sup> day of  
April, 2006 at 3:00 p.m.

Barbara J. O'Connor  
Council Administrator

**BY THE EXECUTIVE**

Dwight R. Craig  
COUNTY EXECUTIVE

APPROVED: Date April 20, 2006**BY THE COUNCIL**

This Bill No. 06-09 As Amended, having been approved by the Executive and returned to the Council, becomes law on April 20, 2006.

EFFECTIVE DATE: April 20, 2006

Barbara J. O'Connor, Council Administrator

EXHIBIT A

FORM OF BOND

\$ \_\_\_\_\_

R-\_\_

REGISTERED

UNITED STATES OF AMERICA  
STATE OF MARYLAND

BOARD OF COMMISSIONERS  
OF THE TOWN OF BEL AIR

TOWN OF BEL AIR, MARYLAND  
PARKING GARAGE BOND, 2006

Dated May 1, 2006

PAYMENTS OF PRINCIPAL AND INTEREST ON THIS BOND ARE  
MADE BY CHECK, DRAFT OR ELECTRONIC FUNDS TRANSFER TO  
THE REGISTERED OWNER AND IT CANNOT BE DETERMINED FROM  
THE FACE OF THIS BOND WHETHER ALL OR ANY PART OF THE  
PRINCIPAL OF OR INTEREST ON THIS BOND HAS BEEN PAID.

REGISTERED OWNER: Harford County, Maryland

Board of Commissioners of the Town of Bel Air, a municipal corporation of the State of Maryland (the "Borrower"), hereby acknowledges itself obligated to pay to the Registered Owner shown above, the principal amount of \$\_\_\_\_\_ (the "Principal Amount"), plus interest on the unpaid principal amount thereof at the rate of four and twenty-five hundredths per centum (4.25%) per annum. The Principal Amount represents, as of the dated date hereof, the outstanding principal advanced to the Borrower by Harford County, Maryland under the terms of the Joint Use and Lease Agreement dated as of May 1, 2006 by and between the Borrower and Harford County, Maryland (the "County").



The principal advanced under the Joint Use and Lease Agreement and interest thereon, as herein provided, shall be paid in installments on the dates and in the amounts as set forth in the following schedule, as such schedule may be amended in accordance with the terms hereof:

<u>Due June 30</u>	<u>Principal and Interest Amount</u>
2007	\$87,580.45
2008	87,580.45
2009	87,580.45
2010	87,580.45
2011	87,580.45
2012	87,580.45
2013	87,580.45
2014	87,580.45
2015	87,580.45
2016	87,580.45
2017	87,580.45
2018	87,580.36

Notwithstanding the foregoing, all outstanding unpaid principal amounts advanced under the Joint Use and Lease Agreement, if not previously due hereunder, shall be due on June 30, 2018.

Interest due on the unpaid principal amount of this bond shall accrue on the basis of a 30 day month, 360-day year from the date hereof or from the most recent interest payment date to which interest has been paid or duly provided for determined in accordance with the terms hereof. Interest shall be paid the 30<sup>th</sup> day of June, 2007, and annually thereafter on the 30<sup>th</sup> day of June in each year until the principal amount hereof has been paid; provided that, the interest payable on this bond on June 30, 2007 shall be the amount of interest accruing on the outstanding principal amount of this bond from May 1, 2006 to June 30, 2007 at the rate of interest per annum set forth above.

In the event of default in payment of principal or interest on the date payment is required, the Registered Owner may declare and determine after 10 days' written notice to the Borrower, that all unpaid principal and interest is accelerated and due immediately.

This bond is subject to prepayment of at least \$10,000 of principal on June 30<sup>th</sup> of any year without penalty.

Both the principal of and interest on this bond will be paid to the registered owner in lawful money of the United States of America, at the time of payment, and will be paid by electronic funds transfer, or by check or draft mailed (by depositing such check or draft, correctly addressed and postage prepaid, in the United States mails before the payment date) to the registered owner at such address as the registered owner may designate from time to time by a notice in writing delivered to the Chairman of the

Borrower.

This bond is issued pursuant to and in full conformity with the provisions of Resolution No. 752-06 adopted by the Borrower on March 20, 2006 (the "Resolution").

This bond, together with the Joint Use and Lease Agreement, evidences the Loan (as defined in the Joint Use and Lease Agreement) to the Borrower from Harford County, Maryland.

The full faith and credit and unlimited taxing power of the Borrower are hereby irrevocably pledged to the prompt payment of the principal of and interest on this bond according to its terms, and the Borrower does hereby covenant and agree to pay the principal of and interest on this bond at the dates and in the manner prescribed herein.

This bond is transferable only after the first principal payment date as set forth above, upon the books of the Borrower at the office of the Chairman of the Borrower by the Registered Owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof, together with a written instrument of transfer satisfactory to the Chairman of the Borrower, duly executed by the Registered Owner or his duly authorized attorney. The Borrower shall, within a reasonable time, issue in the name of the transferee a new registered bond or bonds, in such denominations as the Borrower shall by resolution approve, in an aggregate principal amount equal to the unpaid principal amount of the bond or bonds surrendered and with the same maturities and interest rate. If more than one bond is issued upon any such transfer, the installment of principal and interest to be paid on each such bond on each payment date shall be equal to the product of the following formula: the total installment due on each payment date multiplied by a fraction, the numerator of which shall be the principal amount of such bond and the denominator of which shall be the aggregate principal amount of bonds then outstanding and unpaid. The new bond or bonds shall be delivered to the transferee only after payment of any taxes on and any shipping or insurance expenses relating to such transfer. The Borrower may deem and treat the party in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Maryland and the Resolutions and/or Ordinances to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that the issuance of this bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution or statutes.

IN WITNESS WHEREOF, this bond has been executed by the manual signature of the Chairman and Town Administrator and the seal of the Borrower has been affixed hereto, attested by the manual signature of the Clerk, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

(SEAL)

ATTEST:

BOARD OF COMMISSIONERS OF  
THE TOWN OF BEL AIR

\_\_\_\_\_  
Christopher G. Schlehr  
Town Administrator

By: \_\_\_\_\_  
Terrence O. Hanley  
Chairman

EXHIBIT B

JOINT USE AND LEASE AGREEMENT

TOWN OF BEL AIR, MARYLAND

and

HARFORD COUNTY, MARYLAND

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Dated as of May 1,2006

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THIS JOINT USE AND LEASE AGREEMENT IS ENTERED INTO THIS 1<sup>ST</sup> DAY OF May, 2006 BY AND BETWEEN HARFORD COUNTY, MARYLAND (the "COUNTY") and THE TOWN OF BEL AIR, MARYLAND (the "TOWN").

RECITALS

WHEREAS, pursuant to a Ground Lease dated, December 1, 1988 and the First Supplemental Amendment to Ground Lease dated April 1, 1993 (both of which are hereinafter the "Ground Lease"), the Town has leased from the County approximately .751 acres of land located on the west side of Hickory Avenue in the Town of Bel Air, Maryland, which, together with the adjacent parcel of approximately .741 acres of land owned by the Town, constitutes the Facility Site (the "Facility Site") as indicated on Exhibit A to this Joint Use and Lease Agreement, attached hereto and incorporated by reference herein; and

WHEREAS, by virtue of a Conditional Purchase Agreement (the "Purchase Agreement") dated December 1, 1988 and the First Supplemental Amendment to Conditional Purchase Agreement dated April 1, 1993, the Town has acquired a public parking garage (the "Facility") constructed on the Facility Site, for the use of the general public, including residents, inhabitants, visitors, and employees of the Town and the County; and

WHEREAS, the acquisition and construction of the Facility was refinanced pursuant to the issuance of refunding certificates of participation in the principle amount of \$7,850,000.00 (Town of Bel Air Parking Facility Series 1993) under the terms of a Certificate of Participation Trust Agreement (the "Trust Agreement") dated April 1, 1993 by and among the Town and Signet Trust Company successor to Signet Bank/Maryland, in its capacities as Seller of the Facility and Trustee for the benefit of the Certificate Holders; and

WHEREAS, during the term of the Purchase Agreement of December 1, 1988 and the First Supplemental Amendment to Purchase Agreement dated April 1, 1993, the Town leased 684 parking spaces in the Facility (the "Rental Space") to the County pursuant to a Joint Use and Lease Agreement dated as of December 1, 1988 and the First Supplemental Amendment to Joint Use and Lease Agreement dated April 1, 1993, (both of which are hereinafter the "Financing Joint Use and Lease Agreement") between the Town as Lessor and the County as Lessee; and



WHEREAS, the Financing Joint Use and Lease Agreement required the County to make rental payments (the "Rentals") to the Town for its use and occupancy of the Rental Space which rentals were paid directly to the Trustee and credited against the purchase installments due from the Town under the Purchase Agreement dated December 1, 1988 and the First Supplemental Amendment to Purchase Agreement dated April 1, 1993; and

WHEREAS, Section 7.01(a) of the First Supplemental Amendment to Conditional Purchase Agreement dated April 1, 1993 provides that "Purchaser" (the Town) may at its option prepay on any payment date of a purchase installment, all or any portion of the remaining balance of the Facility Purchase Price; and

WHEREAS, Section 5.02 of the Trust Agreement specifies a redemption price on June 1, 2005 and thereafter of 100% of the Refunding Certificates being redeemed; and

WHEREAS, the Town has requested the County to pay to The Bank of New York (successor Trustee to Signet Trust Company), 67.2% of the current outstanding amount owed on the refunding Certificates of Participation and accrued interest, less 67.2% of the debit service reserve fund currently maintained by The Bank of New York pursuant to the Trust Agreement and the Town also has requested the County to loan to the Town 32.8% of the current outstanding balance of Certificate of Participation and accrued interest less 32.8% of the debt service reserve fund maintained by The Bank of New York pursuant to the Trust Agreement, to enable the Town to retire, as of May 1, 2006 the refunding Certificates of Participation in full plus accrued interest.

WHEREAS, on May 1, 2006, the County will advance funds to the Town to redeem all of the Refunding Certificates then outstanding, including \$804,533.00 representing and attributable to the Town's share of the total redemption price paid to the Trustee, The Bank of New York, (successor to Signet Trust Company) so that the Town will owe the County Eight Hundred Four Thousand, Five Hundred Thirty Three Dollars (\$804,533.00) ("Loan"), and

WHEREAS, Section 5.01 of the Lease Agreement dated as of December 1, 1988, provides that "when all installments due under the Conditional Purchase Agreement have been paid and the County has paid the total rentals due pursuant to the terms of this Lease Agreement, the County will be deemed to own 67.2% of the Facility and the Town will be deemed to own 32.8% of the Facility (so that the Financing Lease, which includes the Lease Agreement dated as of December 1, 1988 and the

First Supplemental Amendment to Lease Agreement dated April 1, 1993 will be terminated) and the Town will enter into a Post Financing Lease Agreement which will be substantially similar in form to the form of lease attached to the Lease Agreement as Exhibit E”; and

WHEREAS, Section 5.01 of the Supplemental Amendment to Lease Agreement dated April 1, 1993 provides that “The Purchaser (the Town) and the County may at any time amend the form of the Post Financing Lease Agreement attached as Exhibit E.. to the Lease Agreement dated as of December 1, 1988” ; and

WHEREAS, the County and the Town wish to amend, cancel and revoke the Post Financing Lease Agreement and to substitute this Joint Use and Lease Agreement in its place and stead.

NOW, THEREFORE, the County and the Town, in consideration of their respective rights, duties and obligations hereinafter set forth and for other good and valuable consideration, do hereby mutually agree as follows:

The above Recitals are incorporated into this Joint Use and Lease Agreement as a substantive part hereof.

## ARTICLE I

### REPRESENTATIONS; DEFINITIONS

Section 1.01. Representations of the County. The County represents and covenants for the benefit of the Town and its assignees as follows:

(a) The County is a body politic and corporate and a political subdivision duly organized and existing under the Constitution and laws of the State of Maryland and is authorized under the Constitution and laws of the State of Maryland to enter into this Joint Use and Lease Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.

(b) The County has been duly authorized to execute and deliver this Joint Use and Lease Agreement. All requirements have been met, actions have been taken and procedures have been followed in order to ensure the validity and enforceability of this Joint Use and Lease Agreement.

(c) The County has complied with applicable laws and regulations with respect to this Joint Use and Lease Agreement.

(d) During the term of this Joint Use and Lease Agreement, the County will use the six hundred eighty-four (684) parking spaces of the Facility reserved for its exclusive use only (including use by the Board of Education of Harford County) for the purpose of performing one or more functions of the County consistent with the permissible scope of the County's authority and within the scope of authorized public purposes.

(e) The execution, delivery and performance of this Joint Use and Lease Agreement and the transactions contemplated herein will not violate any judgment, order, law or regulation applicable to the County or result in any breach of, or constitute a default, under any indenture, mortgage, deed of trust, bond, loan or credit agreement, or other instrument to which the County is a party or by which it is bound.

(f) There are no actions, suits or proceedings pending or, to the knowledge of the County, threatened against or affecting the County in any court or before any governmental commission, board or authority which, if adversely determined, will have a material adverse effect on the authority or ability of the County to perform its obligations hereunder, or which question the legality, validity or enforceability hereof.

Section 1.02. Representations of the Town. The Town represents and covenants for the benefit of the County as follows:

(a) The Town is a municipal corporation duly organized and existing under the Constitution and laws of the State of Maryland.

(b) The Town is authorized under the Constitution and laws of the State of Maryland to enter into this Joint Use and Lease Agreement and the transactions contemplated hereby, to perform its obligations hereunder.

(c) The Town has been duly authorized to execute and deliver this Joint Use and Lease Agreement. All requirements have been met, actions have been taken and procedures have been followed in order to ensure the validity and enforceability of this Joint Use and Lease Agreement.

(d) The Town has complied with all applicable laws and regulations with respect to this Joint Use and Lease Agreement.

(e) During the term of this Joint Use and Lease Agreement, the Town will use the Facility and the Facility Site only for the purpose of performing one or more of the functions of the Town consistent with the permissible scope of the Town's authority and within the scope of authorized public purposes.

(f) The execution, delivery and performance of this Joint Use and Lease Agreement and the transactions contemplated herein will not violate any judgment, order, law or regulation applicable to the Town or result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bond, loan or credit agreement or other instrument to which the Town is a party or by which it is bound.

(g) There are no actions, suits or proceedings pending or, to the knowledge of the Town, threatened against or affecting the Town in any court or before any governmental commission, board or authority which, if adversely determined, will have a material adverse effect on the authority or ability of the Town to perform its obligations hereunder, or which question the legality, validity or enforceability hereof.

(h) The Bond contemplated to be issued and sold by the Town to the County pursuant to Resolution No. 752-06 shall be exempt from the provisions of Sections 10 and 11 of Article 31 of the Annotated Code of Maryland (2003 Replacement Volume, 2004 Supplement).

(i) The Town will deliver to the County on or before May 1, 2006 the Opinion of its counsel, in form and substance satisfactory to the County, to the effect that (i) Resolution No. 752-06 has been duly adopted and is in full force and effect as of May 1, 2006 without amendment or change, (ii) the Bond issued by the Town and purchased by the County pursuant to Resolution No. 752-06 is properly issued and is a legal, valid and binding obligation of the Town, enforceable in accordance with its terms, and (iii) after issuance of the Bond, the Town will not take any action which causes interest on the Bond to be subject to income taxation by the United States or the State of Maryland ("Town Attorney Opinion").

Section 1.03. Definitions. (a) The following terms shall have the meanings indicated below unless the context clearly requires otherwise.

"Business Day" means a day other than a Saturday, Sunday, legal holiday or day on which banking institutions are authorized or required by law to be closed in the State of Maryland.

“Capital Improvements” mean structural elements of the Facility including but not limited to its roof, walls, foundation, floors, stairs, elevators and ramps and all machinery used to clean and operate the Facility.

“Council” means the County Council of Harford County, which is the legislative body of the County.

“County” means Harford County, Maryland, a body politic and corporate and a political subdivision of the State of Maryland.

“County Executive” means the County Executive of the County, who is the chief executive officer of the County.

“County’s Portion” means sixty-seven and two-tenths percent (67.2%).

“Facility” means the public parking garage constructed on the Facility Site, including walkways, parking spaces for the exclusive use of the general public, the County’s employees and the County’s designated law enforcement agency, and driveway access to the Facility and Facility Site, as more particularly described on Exhibit B to this Joint Use and Lease Agreement.

“Facility Site” means the real property described on Exhibit A hereto.

“Fiscal Year” means the twelve-month period commencing on July 1 of each year and ending on June 30 of the following calendar year.

“Insurance Costs” means all costs incurred in maintaining casualty and property damage coverage on the Facility pursuant to Section 5.03 (a) (i) hereof.

“Joint Use and Lease Agreement” means this Joint Use and Lease Agreement, including the Exhibits attached hereto, as such agreement may from time-to-time be modified, amended or supplemented by the parties hereto.

“Operation and Maintenance Costs” means all costs incurred in the operation and maintenance of the Facility, including costs due to reasonable wear and tear, replacement, administrative expenses and equipment incurred in connection with the operation and maintenance of the Facility pursuant to Section 4.01 thereof.

“Reimbursements” means the estimated payments made by the County to the Town hereunder as the County’s estimated Portion of the Operation and Maintenance Costs, the Taxes, and the Insurance Costs as approved.

“Rentals” means the payments payable by the Town pursuant to the provisions of this Joint Use and Lease Agreement during the term or any renewal term, which are payable in consideration of the right of the Town to use the Facility and the Facility Site during the then current portion of the Term or any renewal Term. Rent shall be payable annually by the Town to the County in the amount of One Dollar (\$1.00) beginning on July 1, 2006 and annually on the anniversary of such day for the remainder of the Term or any renewal Term.

“Taxes” means the taxes, governmental charges and utilities assessed against the Facility which are payable in accordance with Section 5.02 hereof, portions of which are reimbursable in accordance with Section 4.01(g) hereof.

“Term” means the term provided for in this Joint Use and Lease Agreement under Section 3.04 (Term of Joint Use and Lease Agreement).

“Total Payments” means the sum of the Rentals and the Operation and Maintenance Costs, Taxes and Insurance Costs payable by the County hereunder.

“Town’s Portion” means thirty-two and eight-tenths percent (32.8%).

Section 1.04 Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number include the plural number and vice versa, and words importing persons include any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

## ARTICLE II

### LOAN

Section 2.01. Loan. On May 1, 2006 the County will purchase from the Town the bond of the Town, issued upon the full faith and credit and unlimited taxing power of

the Town bearing interest at the rate of 4.25% per annum ("Bond") to evidence the Loan and obligation of the Town to repay the Loan.

Section 2.02. Use of Proceeds. The Town agrees to use the funds received from the County to store and pay the Town's portion of the outstanding amount and accrued interest owed on the refunding Certificates of Participation.

Section 2.03. Issuance of Bond. The Town agrees to take all action necessary or appropriate to issue the Bond. The Bond shall be substantially in the form attached to Bill No. 06-09 introduced by the County Council of Harford County, Maryland on March 21, 2006, scheduled for public hearing on April 18, 2006.

Section 2.04. Delivery by Town. On May 1, 2006 the Town will deliver to the County (i) the Bond executed and sealed by the President and Clerk of the Board of Commissioners of the Town, (ii) Internal Revenue Service Form 8038-G, an original of which shall be filed by the Town by certified mail with the Internal Revenue Service in Ogden, Utah, (iii) a Tax Certificate and Compliance Agreement signed by the Director of Finance of the Town, (iv) the Town Attorney Opinion, and (v) an opinion of bond counsel, satisfactory to the County opining that interest on the Bond is exempt from income taxation by the United States and the State of Maryland.

### ARTICLE III

#### LEASE OF FACILITY AND FACILITY SITE; TERM OF LEASE

Section 3.01. Joint Use and Lease Agreement of the Facility and the Facility Site. The Facility is a six (6) story parking garage which contains one thousand eighteen (1,018) parking spaces as described in Exhibit B hereto. The Facility Site is that real property described in Exhibit A hereto. The County hereby agrees to lease to the Town, which hereby agrees to rent from the County, the Facility and the County's interest in the Facility Site, subject to the reservation by the County of the exclusive use of six hundred eighty four (684) parking spaces in the Facility including thirty four (34) parking spaces of the Facility located on the first floor of the Facility shall be reserved for the exclusive use of the County.

Section 3.02. Use of the Facility and the Facility Site. The Town will not use, operate or maintain the Facility or the Facility Site improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Joint Use and Lease Agreement or contrary to any applicable insurance policy.

Section 3.03. Essential Use. The County represents that the Rental Space will be essential for the operations of the County in order to meet the needs of the citizens of the County and the County is in immediate need of the Rental Space in order to meet such needs.

Section 3.04. Term of Joint Use and Lease Agreement. This Joint Use and Lease Agreement shall remain in full force and effect from the date of its execution and delivery until June 30, 2018, a term of twelve (12) years and two (2) months, subject to an automatic one year renewal each year thereafter, unless otherwise terminated by mutual consent of the parties on any of the following dates:

(i) the date determined under the provisions of Section 2.05 (Termination of the Joint Use and Lease Agreement)

(ii) the date the Town or the County ceases to have any interest in the Facility pursuant to Section 6.02 (Conveyance of Interest During Term); or

(iii) the date of the occurrence of an event of default by the Town and the County's election to terminate this Joint Use and Lease Agreement under Section 7.02 (Remedies on Default).

Section 3.05. Termination of Joint Use and Lease Agreement. Upon full payment of its obligation to the County and after June 30, 2018, the Town may give written notice of termination to the County at least one hundred twenty (120) days prior to end of the then current fiscal year that the Town has determined it will no longer operate the Facility as a public parking garage. Within sixty (60) days of such notice of termination, the County may give the Town written notice of its intent to operate the Facility as a public parking garage during the next fiscal year. If the County assumes operation of the Facility under this Section, the arrangement shall continue thereafter from year to year unless the County elects to terminate the arrangement by giving one hundred twenty (120) days written notice prior to the end of the then current fiscal year. For the first year, if any, of County operation of the Facility hereunder and for each consecutive renewal year thereafter, the Town shall be entitled to lease three hundred thirty four (334) parking spaces from the County upon reimbursement to the County of 1/3 the Operating and Maintenance Costs and 1/3 the costs of necessary Capital



Improvements for the prior fiscal year in accordance with the procedures contained in Sections 3.01(g) and 3.01(i) of the Agreement. Notwithstanding the foregoing, in such event, the Town will pay to the County as reimbursement the Town's portion of operation and maintenance costs, taxes and the insurance costs, consistent with Section 3.01(g) and the annual capital contributions of the Town and the County until changed shall remain at five thousand dollars (\$5,000.00) per year by the Town and ten thousand dollars (\$10,000.00) per year by the County pursuant to Section 3.01(i).

At the end of any fiscal year, if any, after the County has begun operation of the Facility under this Section, the County may give written notice of its intention to terminate any renewal term by giving the Town written notice of termination one hundred and twenty (120) days prior to the end of the then current fiscal year.

Upon termination of the Joint Use and Lease Agreement pursuant to this Section, the Facility Site will be restored to an unimproved condition. The cost of the restoration of the Facility Site will be shared by the County and the Town in proportion to their respective Portions. Upon the restoration of the Facility Site to an unimproved condition, title to the parcels of land comprising the Facility Site will revert to the County and the Town, respectively.

Section 3.06. Additional Spaces . While the Town is operating the Facility, in the event (i) the Town desires the use of additional parking spaces in the Facility, and (ii) the County is not utilizing all of the parking spaces in the Rental Space, the County hereby agrees that the Town shall act as its leasing agent with respect to such additional spaces on the terms and conditions set forth below:

(a) The Town shall give written notice to the County that it desires the use of any additional parking spaces in the Rental Space;

(b) The County shall promptly confirm in writing to the Town whether or not there are additional spaces available in the Rental Space and the number thereof (the "Additional Spaces");

(c) The Town shall have the right to use, contract for or lease such Additional Spaces as it determines in its sole discretion, subject to paragraph (d) below, on a month-to-month basis, and to collect the revenues and rents therefrom; and

(d) The Town shall remit to the County within thirty (30) days of the end of each calendar month, the total revenues and receipts collected by the Town from the rental of the Additional Spaces.

(e) The County shall have the right to terminate the Town's use of the Additional Spaces as of the end of any calendar month upon thirty (30) days prior written notice to the Town.

#### **ARTICLE IV**

##### **RENTALS AND OTHER PAYMENTS**

###### **Section 4.01. Rentals and Other Payments.**

(a) The Town agrees to pay the Rentals to the County, in consideration for its use and occupancy of the Facility and the Facility Site. Rental shall be payable annually and in the amount of One Dollar (\$1.00), beginning on July 1, 2006 and annually on the anniversary of such day for the remainder of the Term or any renewal Term.

(b) Whenever any payment to be made under this Joint Use and Lease Agreement shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be excluded from the calculation of interest and any applicable grace period.

(c) All payments due under this Joint Use and Lease Agreement shall be made in coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(d) If any payment required under this Section is not received by the party to whom it is owed on the date required hereunder, the payment so in default shall continue as an obligation of the defaulting party until it shall have been fully paid. Any such payment or payments in default shall bear interest at the rate of one percent (1%) per month for each month in which such payment is in arrears.

(e) The Town agrees to reimburse the County for any amounts the County voluntarily pays in order to cure the Town's failure to make a payment of Rental or of Operation and Maintenance Costs, Taxes or Insurance Costs hereunder.

(f) The County agrees to fully redeem all the Refunding Certificates presently outstanding through the Bank of New York, Trustee, on May 1, 2006 including in such payment an \$804,533 loan to the Town by the County which represents the net obligation of the Town, after credit of the Town's portion of the debt service reserve fund held by Bank of New York, Trustee. The Town agrees to pay to the County the sum of \$804,533 with interest on the unpaid balance from May 1, 2006 until paid at the annual rate of 4.25%. Payments shall be made in at least twelve annual installments of principal and interest beginning on June 30, 2007 and continuing on June 30 of each year thereafter until June 30, 2018 unless sooner prepaid. Payments of principal and interest shall be made by the Town to the County pursuant to a Bond of the Town sold to the County pursuant to Resolution No. 752-06 adopted by the Bel Air Board of Town Commissioners on March 20, 2006.

(g) Commencing on June 30, 2007 and thereafter on June 30th of each year during the term of this Joint Use and Lease Agreement, or any renewal thereof, the County shall pay to the Town as Reimbursement for each prior fiscal year the County's portion of the Operation and Maintenance Costs, the Taxes and the Insurance Costs. Individual components of the Operation and Maintenance Costs, the Taxes and the Insurance Costs shall be determined by mutual consent of the parties prior to the date on which the first Reimbursement is due and annually thereafter during the term of this Joint Use and Lease Agreement or any Renewal thereof. The cost of such individual components shall be modified on an annual basis as necessary by mutual consent of the parties hereto by July 15 in each new fiscal year as the Town and the County agree to the actual Operation and Maintenance, the Taxes and Insurance Costs for each Fiscal Year. The Town shall furnish the County a written statement of Reimbursement owed by the County representing the County's Portion of the actual costs for that Fiscal Year.

(h) By mutual consent of the parties for each pertinent Fiscal Year during the term of this Joint Use and Lease Agreement, the Town may off-set the appropriate portion of its annual payment against the corresponding Reimbursement owed by the County for that Year.

(i) During the term of this Joint Use and Lease Agreement or any renewal thereof, if Capital Improvements to the Facility are necessary, the parties shall agree to such expenditures by mutual consent and each party shall contribute its portion of such agreed upon expenditures. The parties hereby establish a Capital Improvements Reserve Fund with a balance of \$111,691 as June 30, 2005. For each fiscal year beginning in 2007 and thereafter, the County shall contribute \$10,000 and the Town shall contribute \$5,000, for a total \$15,000 annual contribution to the Capital

Improvement Reserve Fund. Upon termination of the lease term or any renewal thereof, any balance remaining in the Capital Improvements Reserve Fund shall be distributed 2/3 to the County and 1/3 to the Town. The Capital Improvements Reserve Fund shall be maintained in a separate account subject to the joint signatures of the person then serving as Director of Finance of the Board of Town Commissioners of the Town of Bel Air and the person then serving as the Treasurer or Director of Administration of Harford County, Maryland.

## ARTICLE V

### MAINTENANCE AND OPERATION OF THE FACILITY

#### Section 5.01. Operation and Maintenance of Facility.

(a) The Town shall operate the Facility as a public parking garage and shall maintain, preserve and keep the Facility and every part and parcel thereof, in good repair, working order and condition and shall from time-to-time, as necessary, make or cause to be made all necessary and proper repairs, replacements and renewals necessary for the same. The Town shall pay all Operation and Maintenance Costs attributable to the Facility as the same are due and payable.

(b) In the event the Town fails to meet its obligations under paragraph (a) of this Section, the County shall give written notice to the Town setting forth the repairs and/or replacements which are necessary. If such repairs or replacements as set forth in such notice have not begun within sixty (60) days after such written notice is mailed, the County may make such repairs and/or replacements and may deduct from the Reimbursements an amount equal to the Town's Portion of any expenses incurred by the County in maintaining the Facility.

Section 5.02. Taxes, Other Governmental Charges and Utility Charges. Subject to Reimbursements as provided in Section 3.01 (g) hereof, while the Town is operating the Facility during the term of this Joint Use and Lease Agreement, the Town will pay, as the same respectively become due, subject to reasonable rights to defer and contest the applicability of any such charge (and as to which the County agrees to join and assist, at no expense or liability to the County), all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Facility or the Facility Site and any equipment or other property acquired by the Town or County in substitution for, as a renewal or replacement of, or a modification, improvement, accretion, accessory, or addition to the Facility, or with respect to the Town's or the County's possession or use of the Facility, together with

any interest or penalty thereon, as well as all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Facility; provided that, with respect to any governmental charges that may lawfully be paid in installments over a period of years, the Town shall be obligated to pay only such installments as are accrued during such time as this Joint Use and Lease Agreement is in effect. Notwithstanding the foregoing, neither the Town nor the County at the present time anticipates that any taxes will be levied against the Facility and both the Town and the County agree that unless and until there is a private use of the Facility, neither of them will levy any taxes against the Facility.

Section 5.03. Insurance.

(a) Type, Amount and Form.

(i) Casualty and Property. The Town shall maintain casualty and property damage insurance or self-insurance with respect to the Facility in amounts sufficient to protect the Town and the County in all events. The parties agree that the coverage described in Exhibit C hereto constitutes the present requirements for insurance or self-insurance appropriate with respect to the Facility.

(ii) Public Liability. The Town and the County shall maintain public liability insurance or self-insurance with respect to the Facility in such amounts as local governments in the State of Maryland generally maintain for similar liabilities and occurrences under the Local Government Tort Claims Act, Sections 5-401 to 5-404, inclusive, of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, as Amended. In no event, however, shall such amounts be less than \$1 million for any one occurrence and \$2 million in the aggregate. All policies of public liability insurance or self-insurance shall name the Town and the County as co-insureds or as their respective interests may other wise appear under this Joint Use and Lease Agreement.

(iii) Form. All policies of insurance to be carried and obtained by any party in accordance with the provisions of this Section 4.03 shall be issued in form reasonably acceptable to the other party either under a program of self-insurance as described below or by good and responsible insurance companies licensed in Maryland and approved by the other party. Each party shall procure and maintain renewal or additional policies as often as any such policy shall expire or terminate, and shall furnish certificates thereof to the other party as herein provided.

(iv) Endorsements; Cancellation. Any insurance policy issued pursuant to this Section 4.03, shall be so written or endorsed as to make losses, if any, payable to the Town and the County as their respective interests may appear under this Joint Use and Lease Agreement. Each insurance policy provided for in this Section 4.03 shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially or adversely to the interest of the Town and the county, without first giving written notice thereof to the Town and the County at least forty-five (45) days in advance of such cancellation or modification.

(v) Self-Insurance. If either party determines to provide the insurance required by this Section 4.03 through self-insurance, such party shall not do so until each of the following events have occurred: (1) The self-insuring party shall have delivered to the other party notice of the self-insuring party's determination so to provide self-insurance, setting forth the coverage provided by such self-insurance; and (2) the other party shall have approved such determination of self-insurance; and (3) the self-insuring party shall have evidenced to the satisfaction of the other party that the party has established and will continuously maintain reserves sufficient to pay any and all claims made against such self-insurance.

(b) Adjustments. Each party may, in its reasonable discretion, request changes in coverage and increases in the amount of casualty and property damage insurance of self-insurance set forth in Exhibit C in order to reflect any cost of living increases, provided that such requests are not made more frequently than once every two years.

(c) Proof of Insurance; Blanket Insurance. Each party shall, at the request of the other party and on or before the expiration date of any policy, furnish to the other party binders evidencing such coverage throughout the Term. Each party may satisfy its responsibilities under this Section 4.03 under a blanket insurance policy or policies of self-insurance which covers, in addition to the party's responsibilities under this Joint Use and Lease Agreement, other properties.

(d) Effective Date. All policies of insurance or self-insurance shall be effective from and after the date on which this Joint Use and Lease Agreement is executed.

Section 5.04. Liens. Neither party shall directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrances or claim on or with respect to the Facility or the Facility Site or its interest therein under this Joint Use and Lease Agreement. Each party shall promptly,

at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same shall arise at any time.

Section 5.05. Modifications. Neither party shall make any material alterations, modifications, or attachments to the Facility and/or the Facility Site without the prior written consent of the other party. All alterations, modifications or attachments to the Facility and/or the Facility Site shall become part of the Facility and/or the Facility Site.

Section 5.06. Notice of Defects. The Town shall give to the County prompt written notice of accidents or damages to the Facility.

Section 5.07. Quiet Possession. The Town covenants and agrees that, if the County shall perform all the covenants, conditions, and agreements herein contained to be performed on the County's part, the County shall at all times during the term of this Joint Use and Lease Agreement have the peaceable and quiet enjoyment and possession of the Facility and the Facility Site for the purposes leased without hindrance from any person or persons whomsoever.

Section 5.08. Separate Accounts; Audit. The Town shall maintain separate accounts for all revenues and expenses attributable to the Facility. The County shall have the right at all times upon reasonable notice to examine or audit the accounts maintained by the Town for the Facility.

## ARTICLE VI

### CONVEYANCE OF TITLE; PURCHASE OPTIONS

Section 6.01. Title to Facility Upon Termination of Term. During the term of this Joint Use and Lease Agreement or any yearly renewal term provided for hereunder, the County shall be deemed to own 67.2% of the Facility and .751 acres more or less of the Facility Site as indicated on Exhibit A and the Town shall be deemed to own 32.8% of the Facility and .741 acres of the Facility Site as indicated on Exhibit A. Upon termination of the term of this Joint Use and Lease Agreement, or any such renewal term, the Facility Site will be restored to an unimproved condition and title to the respective parcels of land comprising the Facility Site will revert to the Town and the County. The costs of restoring the Facility Site will be shared by the County and the Town in proportion to their respective Portions.

Section 6.02. Conveyance of Interest During Term.

(a) At any time during the Term of this Joint Use and Lease Agreement, the County may purchase the Town's interest in the Facility upon consent of the Town given by resolution duly adopted by a majority of the then acting Board of Town Commissioners at a public meeting and in accordance with the applicable law. The County shall purchase the Town's interest in the Facility upon payment to the Town of an amount equal to the fair market value of the Town's portion of the Facility as agreed upon by the parties. The County will thereafter assume all of the Town's rights, duties and obligations with respect to the Facility and this Joint Use and Lease Agreement will terminate, become null and void, and be of no further force and effect. In such event, the Town hereby agrees to lease its interest in the Facility Site to the County for as long as the County continues to operate the Facility as a public parking garage. Such lease shall provide that if the County ceases to operate the Facility as a public parking garage, it shall restore the Facility Site to an unimproved condition at its sole cost and expense. The lease from the Town to the County will then terminate and title to the respective parcels of land comprising the Facility Site will revert to the Town and the County.

(b) At any time during the Term of this Joint Use and Lease Agreement, the Town may purchase the County's interest in the Facility upon consent of the County given in accordance with the applicable law. The Town shall purchase the County's interest in the Facility upon payment to the County of an amount equal to the fair market value of the County's portion of the Facility as agreed upon by the parties. Thereafter, this Joint Use and Lease Agreement will terminate, become null and void and of no further force and effect. In such event, the County hereby agrees to lease its portion of the Facility to the Town for so long as the Town continues to operate the Facility as a public parking garage. If the Town ceases to operate the Facility as a public parking garage, it shall restore the Facility Site to an unimproved condition at its sole cost and expense and title to the respective parcels of land comprising the Facility Site will revert to the Town and the County.

ARTICLE VII

ASSIGNMENT AND INDEMNIFICATION

Section 7.01. Assignment. Neither party shall assign its right, title or interest in this Joint Use and Lease Agreement or the Facility to any other party without the prior written consent of the other party hereto, which consent shall not unreasonably be



withheld. Upon any assignment, the assignee shall succeed to and assume all of the assigning party's rights, duties, and obligations hereunder for the remaining Term of this Joint Use and Lease Agreement or the term specified in such assignment.

Section 7.02. Release and Indemnification Covenants. For the Term of this Joint Use and Lease Agreement and any renewal term, except to the extent caused by the negligence or willful misconduct of either party, either party shall, to the extent permitted by applicable law, indemnify, protect, hold harmless, save and keep harmless the other party hereto from and against any and all liability, obligations, losses, claims and damages whatsoever, resulting in damage to property or injury or death to any person regardless of cause thereof because of any action or inaction of the other party hereto relating to the Facility or the Facility Site together with any costs (including reasonable attorneys' fees) incurred in connection with the exercise of remedies hereunder. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Joint Use and Lease Agreement or the termination of the Term for any reason, but only as to matters arising prior to the date of such termination.

## ARTICLE VIII

### EVENTS OF DEFAULT

Section 8.01. Events of Default Defined. The following shall be "events of default" under this Joint Use and Lease Agreement and the terms "event of default" and "default" shall mean, whenever they are used in this Joint Use and Lease Agreement:

(a) Failure by the Town (i) to pay any Rentals required to be paid hereunder, or (ii) either the Town or the County to pay any other payment required to be paid hereunder, at the times specified herein and expiration of a grace period of fifteen (15) days; however, payments required by Section 5.02 (Taxes, Other Governmental Charges and Utility Charges) shall be subject to the Town's rights as set forth in such Section to defer and contest.

(b) Failure by the Town or the County to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (a) above for a period of thirty (30) days after written notice to the defaulting party by the non-defaulting party, specifying such failure and requesting that it be remedied, unless the non-defaulting party shall agree in writing to an extension of

such time prior to expiration of such thirty (30) day period; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the non-defaulting party shall not unreasonably withhold its consent to an extension of time if corrective action is instituted by the defaulting party within the applicable period and diligently pursued until the default is corrected; or

(c) Any representation of the Town or the County contained herein or any document, certificate or information furnished by the Town or the County to the other in connection herewith which shall prove to be untrue or incorrect in any material respect when made; or

(d) The Town or County files any proceeding under the Federal Bankruptcy Code or makes a general assignment for the benefit of creditors or institutes or consents to the filing of any proceeding for any receivership under any other bankruptcy or insolvency laws.

**Section 8.02. Remedies on Default.**

(a) Whenever any event of default referred to in paragraph (a) of Section 7.01 (Events of Default Defined) shall have happened and be continuing, the non-defaulting party shall have the right, at its sole option, without any further demand or notice, to terminate this Joint Use and Lease Agreement and take any one or any combination of the following remedial steps:

(i) Reclaim possession of the Facility and thereafter operate the Facility for any use the non-defaulting party, in its sole discretion, may determine. The defaulting party shall permit and grant the non-defaulting party, its agents, lessees, employees and licensees the right to enter upon the Facility for the aforesaid purposes. The defaulting party shall assign all of its permits and licenses for the operation thereof to the non-defaulting party, which assignment shall be automatic upon the non-defaulting party reclaiming possession of the Facility. The non-defaulting party shall have the right to make all repairs, alterations and improvements to the Facility as it may deem proper and to demand, collect and retain all earnings and proceeds from such use.

(ii) Pay such Operation and Maintenance Costs, Taxes and Insurance Costs as are unpaid and overdue. The non-defaulting party shall have the right to recover from the defaulting party amounts which are owed by the defaulting party..

(iii) Institute appropriate legal proceedings to recover any unpaid overdue Rentals and other payments required to be paid hereunder.

In the event the non-defaulting party terminates this Joint Use and Lease Agreement and reclaims possession of the Facility pursuant to this Section, the defaulting party shall lease its portion of the Facility Site to the other so long as the non-defaulting party operates the Facility as a public parking garage. If at any time that party ceases to operate the Facility as a public parking garage, it shall restore the Facility Site to an unimproved condition at its sole cost and expense. Then this Joint Use and Lease Agreement shall terminate and title to the respective parcels of land comprising the Facility Site will revert to the Town and the County.

No event of default specified in paragraph (a)(ii) of Section 8.01 (Events of Default Defined) shall be deemed hereunder to be continuing in respect of the performance of work required to be performed or of acts required to be done or of conditions required to be remedied if, after written notice by the County, the Town shall have commenced steps promptly to rectify the same and shall thereafter be prosecuting the same to completion with diligence and continuity.

(b) Whenever any event of default referred to in paragraph (a),(b), (c) or (d) of Section 8.01 (Events of Default Defined) shall have happened and be continuing, the non-defaulting party shall have the right, at its sole option, without further demand or notice, to institute such appropriate legal proceedings to require the defaulting party to cure any such event of default by observing, complying with or performing its obligations thereunder.

Section 8.03. No Remedy Waived. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the non-defaulting party to exercise any remedy reserved to it in paragraph (a) of Section 7.02 (Remedies on Default), it shall not be required to give any notice, other than such notice as may be required in this Joint Use and Lease Agreement.

Section 8.04. Failure of County to Pay Reimbursements. In the event the County fails to pay any Reimbursements or adjustments to Reimbursements to the Town at the times specified herein, and upon expiration of a fifteen (15) day grace period, the Town shall have the right to institute appropriate legal proceedings to recover any overdue Reimbursements required to be paid hereunder.

Section 8.05. Remedies To Be Exclusive. Notwithstanding any other provision of this Joint Use and Lease Agreement, the remedies provided herein shall be exclusive.

## ARTICLE IX

### MISCELLANEOUS

Section 9.01. Severability. In the event any provision of this Joint Use and Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holdings shall not invalidate or render unenforceable any other provision hereof, and provided if any provision with respect to payment or the rights of the Town to reclaim and use the Facility as permitted hereunder shall be held invalid or unenforceable, the Town shall have the right to terminate this Joint Use and Lease Agreement effective as of the end of the then current fiscal year and, as of such date, to exercise all of its remedies upon the occurrence of an Event of Default.

Section 9.02. Benefit And Burden. The provisions of this Joint Use and Lease Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective successors, assignees or representatives.

Section 9.03. Amendments, Changes and Modifications. This Joint Use and Lease Agreement may be amended by written agreement of the Town and the County.

Section 9.04. Execution in Counterparts. This Joint Use and Lease Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.05. Applied Law and Forum. This Joint Use and Lease Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, excluding the conflict-of-law rules of the State of Maryland. All judicial actions, claims, suits or proceedings brought by any party to enforce any rights hereunder shall be initiated and maintained only in the courts of the State of Maryland and not in the courts of any other jurisdiction.

Section 9.06. Captions. The captions or headings in this Joint Use and Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Joint Use and Lease Agreement.

Section 9.07. Estoppel Certificates. The Town will, from time to time, upon 20 days' prior written request by the County, execute, acknowledge and deliver to the

County a certificate of the Town, executed by a duly authorized official of the Town stating that (a) this Joint Use and Lease Agreement is unmodified (or if modified, reciting the modifications), and in full effect, (b) the dates to which Rentals have been paid, and (c) to the knowledge of the signer of the certificate, no default exists under this Joint Use and Lease Agreement (or stating each default of which the signer has knowledge) Any such certificate may be relied upon by an assignee of the County.

Section 9.08. Waiver. No covenant or condition of this Joint Use and Lease Agreement can be waived except by the written consent of the party in whose favor such covenant or condition runs. Any failure of such party to require strict performance by the other or any waiver by the party benefitted of any terms, covenants or agreements herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or agreement herein.

Section 9.09. Mailing Notices. All payments or notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail. Notices to the respective parties shall be addressed as follows:

Town: Town of Bel Air, Maryland  
39 Hickory Avenue  
P. O. Box 151  
Bel Air, Maryland 21014  
Attn: Town Administrator

with a copy to:

Charles B. Keenan, Jr., Esquire  
Stark and Keenan, P.A.  
30 Office Street  
Bel Air, Maryland 21014

County: Harford County, Maryland  
220 S. Main Street  
Bel Air, Maryland 21014  
Attn: County Executive

with a copy to:

County Attorney  
Department of Law, Harford County

220 S. Main Street  
Bel Air, Maryland 21014

County Treasurer  
Department of the Treasury, Harford County  
220 S. Main Street  
Bel Air, Maryland 21014

Section 9.10. Entire Agreement. This Joint Use and Lease Agreement, together with the exhibits and schedules attached hereto and other agreements referred to herein, constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Joint Use and Lease Agreement to be properly executed the day and year first above written.

WITNESS:

**TOWN OF BEL AIR, MARYLAND**

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Name: \_\_\_\_\_

ATTEST:

**HARFORD COUNTY, MARYLAND**

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
David R. Craig, County Executive

**REVIEWED AND APPROVED:**

\_\_\_\_\_,  
Director of Administration

\_\_\_\_\_

County Treasurer

\_\_\_\_\_,  
Director of Procurement

Approved for form and legal sufficiency this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_

**EXHIBIT A**

**FACILITY SITE DESCRIPTION**

**LAND OWNED BY HARFORD COUNTY, MARYLAND**

BEGINNING FOR THE SAME at an iron pipe heretofore set at the beginning of the first or North 49\_ 40' 30" East 58.40 foot line of the firstly described parcel of land conveyed by and described in a deed from Hall R. MacLean, et al to the County Commissioners of Harford County, dated 1 March 1965, and recorded among the land Records of Harford County in Liber G.R.G. 669, page 614, running thence and binding on the first through the fifth lines of said deed, the four following courses and distances as now surveyed, viz;

1. North 49\_ 40' 30" East 150.00 feet to a marble stone heretofore set at the intersection of the right of way lines of Courtland Street, 28.80 feet wide, and Hickory Avenue, 55.00 feet wide, running thence and binding on or near the southwesterly right of way line of Hickory Avenue as now surveyed;

2. North 39\_ 40' 30" West 216.83 feet to a metal object, which appears to be an axle, under the macadam at the entrance to two parking lots;

3. South 50\_ 49' 20" \_\_\_\_\_ 149.61 feet to an iron pin now set and;

4. South 39\_ 34' 30" East 219.83 feet to the beginning hereof containing 0.751 acres of land, more or less, as surveyed by Catron Associates, Inc. in November 1988.

BEING THE SAME AND ALL as that parcel of land firstly described in a deed from Hall R. MacLean, et al to the County Commissioners of Harford County, dated 1 March 1965, and recorded among the Land Records of Harford County in Liber G.R.G. 669, page 614.



LAND OWNED BY THE TOWN OF BEL AIR, MARYLAND

BEGINNING FOR THE SAME at an iron pipe heretofore set on the southeasterly right of way line of Pennsylvania Avenue, said iron pin also being at the beginning of the first or South 33 3/4\_ East 216 feet 8 inch line of that parcel of land conveyed by and described in a deed from James A. Wheeler and Melissa E. Wheeler, his wife, to David Cohen and Hannah Cohen, his wife, dated 1 December 1951, and recorded among the Land Records of Harford County in Liber G.R.G. 366 page 367, running thence and binding on the first and second line of said deed, the three following courses and distances as now surveyed, viz;

1. South 39\_ 34' 30" East 148.74 feet to a monument with the initials "J.S." in the top;
2. South 39\_ 34' 30" East 65.74 feet to an iron pin now set, and;
3. North 50\_ 49' 20" East 149.61 feet to a metal object, which appears to be an axle, under the macadam at the entrance to two parking lots, said metal object also being on the southwesterly right of way line of Hickory Avenue, 55 feet wide, running thence and binding on said right of way line as now surveyed;
4. North 39\_ 40' 30" West 217.43 feet to an iron pin now set at the intersection of the aforesaid southwesterly right of way line of Hickory Avenue and the aforesaid southeasterly right of way line of Pennsylvania Avenue, running thence and binding on or near the right of way line of Pennsylvania Avenue as now surveyed;
5. South 49\_ 41' 20" West 149.24 feet to the beginning hereof containing 0.741 acres of land, more or less, as surveyed by Catron Associates, Inc. in November 1988.

BEING A PART OF that parcel of land conveyed by and described in a deed from David Cohen and Hannah Cohen to Town of Bel Air, dated 23 December 1981, and recorded among the Land Records of Harford County in Liber H.D.C. 1155, page 850.

**Bill No. 06-09  
As Amended**

**EXHIBIT B**

**FACILITY**

**Bill No. 06-09  
As Amended**

**EXHIBIT C**  
**INSURANCE COVERAGES**